

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**TERESSA JANETTE GALLEGOS, Individually and as
Personal Representative of the ESTATE OF
JOSEPH ORAN VAN WINKLE, Deceased;
and MARY ANN VAN WINKLE,**

Plaintiffs,

v.

Cause No. 1:13-cv-01055-JB-KBM

**MAUREEN WOOD, M.D.; and
MEDICAL DOCTOR ASSOCIATES, LLC,**

Defendants.

JOINT MOTION TO COMPEL DEPOSITIONS

The parties, by and through their undersigned attorneys, hereby move the Court for an Order compelling the following physicians to appear for their depositions at a time to be set by the Court (1) Ravi Durvasula, M.D.; (2) Samuel Lee, M.D.; and (3) Chris Quintana, M.D.

As grounds for this Motion, the parties would show the Court the following:

1. This is a medical malpractice case involving the treatment of Joseph Oran Van Winkle at the Veterans Administration Medical Center ("VAMC") in Albuquerque, New Mexico. Neither of the Defendants in this case were Veterans Administration ("VA") employees.
2. Each of the three doctors named above have knowledge of the care and treatment rendered to Mr. Van Winkle by Dr. Wood. Dr. Durvasula was the Chief of Staff at the VAMC who presided over a meeting at which an apology was made to Mr. Van Winkle and his family for the treatment he received. See Exhibit "A" attached hereto. Dr. Lee was the infectious disease doctor who corrected the course of treatment after Mr. Van Winkle returned to the VAMC. Dr. Quintana was

a fellow who worked with Dr. Wood for about one month, while she was treating Mr. Van Winkle. Dr. Wood has testified that the treatment she rendered was incorrect because she was not advised by Dr. Quintana of the laboratory results from a blood culture taken, which showed infection. See portions of Dr. Wood's deposition attached hereto as Exhibit "B".

3. The depositions of each of the doctors in question, Dr. Durvasula, Dr. Lee, and Dr. Quintana, were noticed for April 8, 2014. True and correct copies of the subpoenas mailed to each of them, together with the Notices of Deposition, are attached hereto as Exhibits "C", "D", and "E" respectively.

4. The doctors gave notice through William Casey, a staff attorney at the VAMC, that they would not appear for their depositions. Mr. Casey, in a letter of March 21, 2014, declined to produce Dr. Durvasula, Dr. Lee, or Dr. Quintana for deposition. A true and correct copy of his letter, without the attachments, is attached hereto as Exhibit "F".

5. Plaintiffs' counsel responded with the Affidavit requested by Mr. Casey. A true and correct copy of the Affidavit is attached hereto as Exhibit "G".

6. Mr. Casey wrote back, stating that the doctors would appear for their depositions on certain conditions, one of those conditions being that Plaintiffs agree not to call the doctors to testify at trial. That condition was unacceptable to Plaintiffs. See Exhibit "H", Mr. Casey's email of April 3, 2014, and Exhibit "I", undersigned counsel's email response dated April 4, 2014.

7. Mr. Casey then, in a letter dated April 7, 2014, stated flatly that the VA would not produce the doctors for deposition. A true and correct copy of that letter is attached hereto as Exhibit "J".

8. Plaintiffs' deadline to designate expert witnesses is April 30, 2014, and the testimony of the doctors whose depositions were properly noticed for April 8, 2014 are essential to obtaining the

necessary information for the expert report from Plaintiffs' expert to be as complete as possible. Rule 26 of the Federal Rules of Civil Procedure does not exempt VA physicians from participating in discovery. Neither does F.R.C.P. 30. These depositions need to be taken as soon as possible. Plaintiffs request that their expert designation deadlines be extended to a date twenty-one (21) days past the date that the last of the three doctors' depositions are taken, and that Defendants' expert designations be extended accordingly as well. The parties also seek to extend the deadline for joinder of additional parties. Either Plaintiff or Defendant may wish to join the Veteran's Administration due to the conduct of Dr. Quintana described above and the pharmacist who would have accompanied Dr. Wood on her daily rounds. Dr. Quintana's contribution was not known until Dr. Wood's deposition taken on January 13, 2014.

WHEREFORE, the parties pray that the Court order that Ravi Durvasula, M.D.; Samuel Lee, M.D.; and Chris Quintana, M.D. all to appear for deposition at a date set by the Court, and that they produce such documents as are in their custody and control as requested in the duces tecum previously served upon them; that the expert designation deadlines for the parties be extended by twenty-one (21) days each from and after the date of the taking of the depositions; and such other and further relief as the Court may deem to be just and proper.

Respectfully submitted,

THE PERRIN LAW FIRM

1322 Paseo de Peralta, Lower Level

Santa Fe, New Mexico 87501

Telephone: (505) 989-8800

Facsimile: (214) 646-6117

Email: dougperrin@perrinlaw.org

/s/Doug Perrin

Doug Perrin

ATTORNEY FOR PLAINTIFFS

BROWN & GAY, P.C.

By:/s/Remo Gay (approved 04/15/14)

Remo E. Gay

3810 Osuna Road NE, Ste. 1

Albuquerque, New Mexico 87109-4417

(505) 842-5715

(505) 842-5713 (facsimile)

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that, on the 15th day of April, I forwarded a true and correct copy of the foregoing document to the following as stated below:

Remo Gay
Brown & Gay, P.C.
3810 Osuna Road NE, Ste. 1
Albuquerque, NM 87109

VIA E-SERVICE FILING

William M. Casey
Office of the General Counsel, Region 19
Department of Veterans Affairs
VA Medical Center, Bldg. 18
1501 San Pedro, SE
Albuquerque New Mexico 87108

VIA USPS EXPRESS MAIL
EU 983125252 US

Chris Quintana, M.D.
1845 Illinois NE
Albuquerque, New Mexico 87110

VIA HAND DELIVERY

Samuel Lee, M.D.
The University of New Mexico
Section Chief, Infect Diseases: VA Albuquerque Medical Center
1128 University Boulevard NE
Albuquerque New Mexico 87102

VIA HAND DELIVERY

Ravi Durvasula, M.D.
The University of New Mexico
Professor: IM Div of Infectious Diseases
1128 University Boulevard NE
Albuquerque New Mexico 87102

VIA HAND DELIVERY

/s/Doug Perrin
Doug Perrin